



House of Representatives

File No. 640

General Assembly

February Session, 2012

(Reprint of File No. 219)

House Bill No. 5355
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 4, 2012

AN ACT CONCERNING MUSEUM PROPERTY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2012*) As used in this section
2 and sections 2 to 10, inclusive, of this act:

3 (1) "Museum" means any nonprofit or public institution that is
4 organized for educational, scientific, historic or aesthetic purposes, and
5 which owns, borrows, cares for, studies, archives or exhibits property.
6 Museums may include, but not be limited to, historical societies, parks,
7 historic sites and monuments, archives and libraries;

8 (2) "Property" means any tangible object in the possession of and
9 under a museum's care that has intrinsic educational, scientific,
10 historical, artistic, aesthetic or cultural value;

11 (3) "Loan" means a deposit with a museum that (A) title to the
12 property is not transferred to the museum, (B) the loan agreement for
13 such deposit does not include a provision that the museum acquire title at
14 some time after such deposit is made, or (C) the loan agreement for such

15 deposit includes an option for the museum to acquire title at some time
16 after such deposit is made;

17 (4) "Lender" means a person whose name appears on the records of
18 a museum as the person legally entitled to, or claiming to be legally
19 entitled to, property held by the museum or, if such person is
20 deceased, the legal heirs of such person.

21 Sec. 2. (NEW) (*Effective October 1, 2012*) (a) Any property on loan to a
22 museum that is subject to a loan agreement shall be deemed to be
23 donated to the museum if (1) no claim of ownership is made or action
24 filed to recover such property by the owner after termination or
25 expiration of the loan, and (2) the museum has given notice, in
26 accordance with the provisions of section 5 of this act, and no claim of
27 ownership is made or action to recover such property is filed on or
28 before sixty days after the publication of the second notice.

29 (b) A museum may terminate a loan of property for any property
30 that was loaned to the museum for an indefinite term if the property
31 has been in the possession of the museum for at least five years. Any
32 property on loan to a museum and whose loan agreement indicates
33 that such property is on permanent loan to the museum shall be
34 considered loaned for an indefinite term for purposes of this
35 subsection. The property for any loan of property that has been
36 terminated pursuant to this subsection shall be deemed donated to the
37 museum.

38 (c) A museum may terminate a loan of property for any property
39 that was loaned to the museum for a specified term after the expiration
40 of such specified term, provided the museum provides notice of such
41 termination in accordance with the provisions of section 5 of this act.
42 The property for any loan of property that has been terminated
43 pursuant to this subsection shall be deemed donated to the museum.

44 (d) The owner of property loaned to a museum shall provide such
45 museum with written notice of (1) any change of the address of such
46 owner, (2) the designated agent of such owner, (3) the address of such

47 designated agent, and (4) the name and address of any new owner of
48 such property if there is a change in the ownership of such property
49 loaned to the museum.

50 (e) A museum accepting a loan of property shall provide the owner
51 of such property a written copy of the provisions of sections 1 to 10,
52 inclusive, of this act.

53 Sec. 3. (NEW) (*Effective October 1, 2012*) Any property in the
54 possession of a museum that is not subject to a loan agreement shall be
55 deemed to be abandoned if (1) such property is unclaimed and has
56 been in the possession of the museum as unclaimed property for at
57 least five years, and (2) the museum has given notice, in accordance
58 with the provisions of section 5 of this act, and no claim of ownership
59 is made or action to recover such property is filed on or before sixty
60 days after the publication of the second notice. Any abandoned
61 property in the possession of a museum shall become the property of
62 such museum.

63 Sec. 4. (NEW) (*Effective October 1, 2012*) Each museum shall maintain
64 a record, in accordance with the regulations adopted by the State
65 Librarian pursuant to section 10 of this act, of all property on loan to
66 the museum, including the name and address of the lender, if known,
67 and the dates that such property is to be on loan to the museum and a
68 copy of the loan agreement for such property. The museum shall
69 provide a copy of such record and the loan agreement to the lender of
70 property at the time that such lender makes the loan of property to the
71 museum. If a museum is notified of a change in ownership of any
72 property on loan to the museum, the museum shall create a new
73 record for such property and update the existing loan agreement and
74 shall provide a written copy of such new record and such updated
75 loan agreement to the new owner of such property. If a museum
76 becomes the owner of any property on loan to the museum, the
77 museum shall maintain a record of such ownership in accordance with
78 the regulations adopted by the State Librarian pursuant to section 10 of
79 this act.

80 Sec. 5. (NEW) (*Effective October 1, 2012*) (a) Prior to a museum (1)
81 accepting donated property pursuant to section 2 of this act, or (2)
82 taking ownership of abandoned property pursuant to section 3 of this
83 act, the museum shall make a reasonable good faith effort to find the
84 address of the lender and provide notice that the museum may become
85 the owner of such property. Such notice shall be sent by certified mail,
86 return receipt requested, to the address of the lender on record with
87 the museum.

88 (b) If the museum does not have an address on record for the lender
89 of the property, or the museum does not receive written proof of
90 receipt of the mailed notice after thirty days after the date such notice
91 was mailed, the museum shall publish a notice, at least once each week
92 for two consecutive weeks, in a newspaper of general circulation in the
93 town in which the museum is located and the town of the lender on
94 record with the museum, if available. Such published notice shall
95 contain: (1) A brief and general description of the unclaimed property,
96 (2) the name and address of the lender on record with the museum, (3)
97 a request that all persons who may have any knowledge of the
98 whereabouts of the lender provide written notice to the museum, and
99 (4) a statement that if no claim of ownership is made or action to
100 recover such property is filed on or before sixty days after publication
101 of the second notice, the property shall be deemed donated or
102 abandoned and shall become the property of the museum.

103 (c) For purposes of this section, if the loan of property was made to
104 a branch of a museum, the museum shall be considered to be located
105 in the town in which such branch is located. Otherwise the museum is
106 located in the town in which it has its principal place of business.

107 Sec. 6. (NEW) (*Effective October 1, 2012*) (a) If a museum receives a
108 written claim of ownership for any property for which notice of
109 donation or abandonment was made, pursuant to section 5 of this act,
110 from the lender, or the designated agent of the lender, the museum
111 shall return such property to the lender or carry out the disposition of
112 such property as the lender requests not later than sixty days after

113 receipt of such written claim of ownership. The lender shall advise the
114 museum in writing as to the disposition of such property or how such
115 property is to be returned to the lender. Any costs incurred as a result
116 of returning such property or the disposition of such property shall be
117 the responsibility of the lender unless the lender and the museum have
118 mutually agreed to alternate arrangements.

119 (b) If a museum receives a written claim of ownership for any
120 property for which notice of donation or abandonment was made,
121 pursuant to section 5 of this act, from a person other than the lender on
122 record with the museum, the museum shall, not later than sixty days
123 after receipt of such written claim of ownership, determine if such
124 ownership claim is valid. A claimant shall submit proof of ownership
125 to the museum with such written claim of ownership. If more than one
126 person submits a written claim of ownership, the museum may delay
127 its determination of ownership until the competing claims are resolved
128 by agreement or legal action. If the museum determines that such
129 written claim of ownership is valid or if the competing claims are
130 resolved by agreement or judicial action, the museum shall return the
131 property to the claimant submitting the valid claim of ownership or
132 dispose of the property as such valid claimant requests. Any costs
133 incurred as a result of returning such property or the disposition of
134 such property shall be the responsibility of the valid claimant unless
135 such valid claimant and the museum have mutually agreed to
136 alternate arrangements.

137 (c) If no written claim of ownership is presented to the museum on
138 or before sixty days after the publication of the second notice, such
139 property shall be deemed donated or abandoned and title to the
140 property shall vest in the museum. If a valid claim of ownership for
141 such property is made after title to such property has vested in the
142 museum under this subsection and the museum holds title to such
143 property, then the museum shall return such property to the owner of
144 such property and the title of such property shall revert back to such
145 owner.

146 (d) Any person who purchases or otherwise acquires property from
147 a museum that obtained such property by donation or abandonment
148 pursuant to this section and sections 2 and 3 of this act shall acquire
149 good title to such property.

150 Sec. 7. (NEW) (*Effective October 1, 2012*) (a) A museum may apply
151 conservation or protective measures to any property on loan to the
152 museum without the permission of the lender or formal notice to the
153 lender, unless the written loan agreement for such property provides
154 otherwise, if (1) action is required to (A) protect such property or other
155 property in the possession of the museum, or (B) protect the health and
156 safety of the public or museum staff because such property is a hazard,
157 and (2) (A) the museum is unable to contact the lender at the address
158 on record for the lender within three days before the time the museum
159 determines action is necessary, or (B) the lender does not (i) respond or
160 agree to the conservation or protective measures recommended by the
161 museum, and (ii) terminate the loan and take possession of such
162 property on or before the third day that the museum contacts such
163 lender.

164 (b) If a museum applies conservation or protective measures to any
165 property on loan to the museum under this section, or with the
166 agreement of the lender, unless the written loan agreement for such
167 property provides otherwise, the museum shall acquire a lien on such
168 property in an amount equal to the costs incurred by the museum for
169 such conservation or protective measures taken.

170 (c) The museum shall not be liable for injury to or loss of any
171 property that was on loan to the museum and for which conservation
172 or protective measures were taken under this section, if the museum
173 (1) had a reasonable belief at the time the conservation or protective
174 measures were taken that such measures were necessary to protect
175 such property or other property in the possession of the museum, or
176 that such property was a hazard to the health and safety of the public
177 or museum staff, and (2) exercised reasonable care in the choice and
178 application of such conservation and protective measures.

179 Sec. 8. (NEW) (*Effective October 1, 2012*) The provisions of sections 1
 180 to 10, inclusive, of this act shall not apply to any property in the
 181 possession of a museum pursuant to the Native American Graves
 182 Protection and Repatriation Act, P.L. 101-601.

183 Sec. 9. (NEW) (*Effective October 1, 2012*) (a) Nothing in sections 1 to
 184 10, inclusive, of this act shall be construed to abrogate the rights and
 185 obligations of a lender, claimant or museum identified in a written
 186 loan agreement.

187 (b) The provisions of sections 1 to 10, inclusive, of this act shall not
 188 preclude a museum from availing itself of any other means of
 189 establishing or perfecting title to property in the possession of the
 190 museum.

191 Sec. 10. (NEW) (*Effective October 1, 2012*) The State Librarian shall
 192 adopt regulations, in accordance with the provisions of chapter 54 of
 193 the general statutes, to (1) prescribe the form of written notification to
 194 persons loaning property pursuant to section 2 of this act, and (2) the
 195 procedures for recording and maintaining records of property on loan
 196 to a museum pursuant to section 4 of this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2012</i>	New section
Sec. 2	<i>October 1, 2012</i>	New section
Sec. 3	<i>October 1, 2012</i>	New section
Sec. 4	<i>October 1, 2012</i>	New section
Sec. 5	<i>October 1, 2012</i>	New section
Sec. 6	<i>October 1, 2012</i>	New section
Sec. 7	<i>October 1, 2012</i>	New section
Sec. 8	<i>October 1, 2012</i>	New section
Sec. 9	<i>October 1, 2012</i>	New section
Sec. 10	<i>October 1, 2012</i>	New section

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 13 \$	FY 14 \$
Library, CT State; UConn; Department of Economic & Community Development	GF - Potential Savings	Potential	Potential
Library, CT State; UConn; Department of Economic & Community Development	GF - Potential Cost	less than \$50 per item	less than \$50 per item

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 13 \$	FY 14 \$
Various Municipalities	Potential Savings	Potential	Potential
Various Municipalities	Potential Cost	less than \$50 per item	less than \$50 per item

Explanation

The bill results in a potential savings to the Connecticut State Library, the University of Connecticut and the Department of Economic and Community Development along with various municipalities, all which operate museums. The savings is due to allowing museums to place a lien against certain donated property for the cost of conservation and protective measures for certain donated property. The exact savings is dependent upon the properties meeting the requirements of the bill and the costs of conservation and preservation employed.

Additionally the bill results in potential gain of asset value to such museums as it allows for the taking of ownership of certain properties loaned to the museums if a lender fails to reclaim it and other

requirements are met. The taking of ownership results in a cost of less than \$50 per donated item due to notice requirements to lenders.

House "A" (LCO 4570) is technical and results in no fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**HB 5355 (as amended by House "A")******AN ACT CONCERNING MUSEUM PROPERTY.*****SUMMARY:**

This bill allows a museum, after giving required notice, to take ownership of certain property loaned to it if the lender fails to reclaim it after the loan agreement expires or, if there is no agreement or the loan is for an indefinite period, the property is unclaimed and has been in the museum's possession for at least five years.

In addition, unless a written loan agreement provides otherwise, it allows a museum to apply conservation and protective measures to loaned property in its possession without the lender's permission under certain circumstances. It gives the museum a lien against the property for the cost of conservation and protective measures and, as long as its actions were reasonable, relieves it from liability for any damage to the property the measures cause.

The bill also requires:

1. museums to keep records of loaned property and provide a written copy of the records the bill requires to everyone who loans property to them;
2. owners loaning property to give museums written notice of (a) any change of address, (b) appointment of any designated agent and the agent's address, and (c) if ownership changes, the new owner's name and address; and
3. the state librarian to adopt regulations specifying the form of the required museum records and notices to lenders.

The bill applies to (1) nonprofit or public institutions organized for scientific, educational, cultural, historic, or aesthetic purposes, including historical societies, parks, historic sites and monuments, archives, and libraries and (2) tangible objects in their possession and care that have intrinsic educational, scientific, historical, aesthetic, artistic, or cultural value. It does not apply to property a museum holds under the federal Native American Graves Protection and Restoration Act.

The bill states that its provisions (1) cannot be construed to abrogate a museum's, lender's, or other claimant's rights and obligations identified in a written loan agreement or (2) do not preclude a museum from using other means to establish or perfect title to property in its possession.

*House Amendment "A":

1. requires a museum to make a reasonable good faith effort to find the address of the person who loaned the property in order to notify that person that the museum may take ownership of it;
2. require the museum, if it receives a valid ownership claim after taking title to such property, to return it to the owner;
3. specifies that, if the property is returned in such circumstances, its title reverts to the owner; and
4. eliminates the provision in the original file giving a museum the right to sue to recover costs and attorneys fees incurred in successfully defending its title to property acquired under the bill.

EFFECTIVE DATE: October 1, 2012

GAINING OWNERSHIP OF LOANED PROPERTY

Property Subject to the Ownership Process (§§ 2 & 3)

A museum may use the bill's procedure to take ownership of loaned

property in its possession when:

1. for property subject to a loan agreement and loaned for a specified time, no one claims ownership or seeks to recover the property after the loan is terminated or expires;
2. for property subject to a loan agreement and loaned for an indefinite period or for which the loan agreement specifies a permanent loan, no one claims ownership and the museum has held the property for at least five years; and
3. for property not subject to a loan agreement, the property is unclaimed and has been in the museum's possession for at least five years.

Under the bill, loaned property is property deposited with a museum without any transfer of ownership, and includes property deposited under a loan agreement giving the museum the right to acquire the property in the future.

Notice Requirements (§ 5)

Before taking ownership of loaned property, a museum must make a reasonable good faith effort to find the lender's address and send him or her written notice that it may do so. Under the bill, the lender is the person whose name appears in the museum's records as being legally entitled to the property or, if the person has died, his or her heirs.

The museum must send the notice by certified mail, return receipt requested to the address listed in its records. If the museum has no address listed or if, after 30 days, it does not receive written proof that the notice was received, it must publish a notice at least once a week for two consecutive weeks in a general circulation newspaper in the towns where the museum and, if available, the lender, are located.

The newspaper notice must:

1. give a brief and general description of the property;
2. provide the lender's name and address as listed in the museum's records;
3. ask those with knowledge of the lender's whereabouts to notify the museum; and
4. state that, if the museum does not receive a written ownership claim or notice of any other action to reclaim the property within 60 days after publishing the second notice, the property will be considered abandoned or donated and become the museum's property.

If the property was loaned to a museum branch, the museum's location is considered to be that of the branch. Otherwise, the museum's location is considered to be the town where it has its principal place of business.

Ownership Claims (§ 6 (a) & (b))

If, after giving the required notice, the museum receives a written claim of ownership for the property from the lender or his or her designated agent, it must return the property within 60 days after receiving the claim. The lender must give written instructions on how to dispose of the property or return it. Unless the museum and the lender agree on other arrangements, the lender is responsible for any costs of disposing of or returning the property.

If the written claim is from a person other than the lender specified in the museum's records, the museum must determine the validity of the claim within 60 days after receipt, based on proof of ownership the claimant must submit with the claim. If the museum receives more than one written claim of ownership, the bill allows it to delay its ownership determination until the competing claims are resolved by agreement or legal action.

Once ownership is determined, as is the case with the specified

lender, the bill requires the museum to return or dispose of the property as the owner requests. Unless the owner and the museum agree on other arrangements, the owner is responsible for any costs for returning or disposing of the property.

If No One Claims Ownership After 60 Days (§ 6 (c) & (d))

If the museum receives no written ownership claims within 60 days after it publishes the second required notice, the property is considered donated or abandoned and the museum becomes its owner. But, if the museum receives a valid ownership claim after taking title to the property, the bill requires the museum to return it. In such a case, the property's title reverts to the owner.

The bill specifies that anyone who buys or otherwise acquires the property from a museum that obtained it under the bill's provisions acquires good title to the property.

AUTHORIZATION TO APPLY CONSERVATION AND PROTECTIVE MEASURES (§ 7)

Unless the written loan agreement provides otherwise, the bill allows a museum to apply conservation or protective measures to loaned property without formal notice to, or permission from, the lender if:

1. the action is required to protect the property itself, other museum property, or, because the property is a hazard, the health and safety of the museum staff or the public and
2. within three days before applying the measures, the museum (a) cannot contact the lender at the address in the museum's records or (b) the lender does not respond or agree to the recommended measures and fails to take the property back on or before the third day after being contacted.

If the museum applies the measures under these circumstances, it acquires a lien on the property for their cost. The bill also relieves the museum of any liability for damage the measures cause to the

property if it (1) reasonably believed the measures were needed to protect (a) the property or other property in its possession or (b) museum staff or the public from a health and safety hazard caused by the property and (2) exercised reasonable care in choosing and applying the measures.

MUSEUM RECORDKEEPING (§ 4)

The bill requires museums to keep records of all loaned property according to regulations the state librarian must adopt. Each loan's record must include (1) the lender's name and address, if known; (2) the dates the property is to be on loan; and (3) a copy of the loan agreement. The museum must give the lender a copy of the record and the loan agreement when he or she loans the property. If notified of a change in the ownership of any loaned property, the museum must create a new record, update the loan agreement, and provide copies to the new owner. If the museum becomes the property's owner, it must maintain an ownership record according the state librarian's regulations.

COMMITTEE ACTION

Education Committee

Joint Favorable

Yea 32 Nay 0 (03/14/2012)

Judiciary Committee

Joint Favorable

Yea 40 Nay 0 (04/25/2012)